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# FEDERAL COMMUNICATIONS COMMISSION

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In Re:	)
	)
GERARD A. TURRO	) MM Docket No.
	)
For Renewal of License For	) 97-122
FM Translator Stations W276AQ (FM),	)
Fort Lee, NJ and W232AL (FM),	) File Nos.
Pomona, NY	)
	) BRFT-970129YC
MONTICELLO MOUNTAINTOP	)
BROADCASTING, INC.	) BRFT-970129YD
	)
Order to Show Cause Why the	)
Construction Permit for FM Radio	)
Station WJUX (FM), Monticello, NY,	)
Should Not be Revoked	)

Volume V

Pages: 329 through 583

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Date: December 2, 1997

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## HERITAGE REPORTING CORPORATION

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Should Not be Revoked	)	

Second Floor  
FCC Building  
2000 L Street, N.W.  
Washington, D.C.

Tuesday,  
December 2, 1997

The parties met, pursuant to the notice of the  
Judge, at 10:04 a.m.

BEFORE: HON. ARTHUR I. STEINBERG  
Administrative Law Judge

APPEARANCES:

On behalf of Gerard A. Turro:

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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Serge Loginow, Jr.					
By Mr. Naftalin		333		555	
By Mr. Riley		428		577	
By Mr. Aronowitz			493		
By Mr. Helmick			535		

Hearing Began:	10:04 a.m.	Hearing Ended:	5:30 p.m.
Recess Began:	12:35 p.m.	Recess Ended:	1:45 p.m.

1                                    P R O C E E D I N G S

2                    JUDGE STEINBERG: We're on the record now. This  
3 is a continuation of the hearing in Docket No. 97-122. We  
4 started, technically, last Monday with the admissions  
5 session.

6                    While we were off the record, we discussed a  
7 preliminary matter and that was the testimony of Mr. Gagon.  
8 Did I pronounce that right?

9                    MR. HELMICK: Yes, Your Honor, Gagon.

10                  JUDGE STEINBERG: He was supposed to be scheduled  
11 for this Thursday and due to a death in his family, he won't  
12 be here until Monday and there was no objection. So, we'll  
13 take him on Monday and have enough people to fill in the  
14 week.

15                  Okay, anything else preliminary that we need to  
16 do? Okay, Mr. Aronowitz?

17                  MR. ARONOWITZ: Your Honor, without any further  
18 ado, we have Mr. Serge Loginow here, whose direct testimony  
19 is included within exhibits, and I believe specifically  
20 Exhibits 16, 17 and 18 that comprise his direct case, as  
21 well as maybe some other things in here. Subject to the  
22 admission session of last week, we have Mr. Loginow here for  
23 cross-examination.

24                  JUDGE STEINBERG: Okay, Mr. Loginow?

25

1 Whereupon,

2 SERGE LOGINOW, JR.

3 having been first duly sworn, was called as a witness

4 herein, and was examined and testified as follows:

5 JUDGE STEINBERG: Please be seated. State your  
6 name and address for the record, please?

7 THE WITNESS: My name is Serge Loginow, Jr. and I  
8 reside at 227 Midway Drive, Morrisville, Pennsylvania.

9 JUDGE STEINBERG: Okay, who is going to --

10 MR. NAFTALIN: I will, Your Honor.

11 JUDGE STEINBERG: Do you see any need to put Mr.  
12 Loginow's statements in front of him and say, these are my  
13 statements and are truly correct, to the best of my  
14 knowledge? I mean, that's what we had the admission session  
15 for.

16 MR. NAFTALIN: That was my understanding, too,  
17 Your Honor, and we took Mr. Loginow's deposition a week ago  
18 today and once again, he had a chance to observe all of  
19 those documents and he made no corrections to them.

20 JUDGE STEINBERG: Okay, so you're going to take  
21 the lead, Mr. Naftalin?

22 MR. NAFTALIN: Yes, I am, Your Honor. Thank you.

23 CROSS-EXAMINATION

24 BY MR. NAFTALIN:

25 Q Mr. Loginow, I'd like to examine you on the

1 various examinations you conducted in this proceeding.

2 Before I get to that, I just want to be clear that we  
3 understand some common terms that we can use, very similar,  
4 probably identical to what we did during your deposition a  
5 week ago, plus to make sure that we're all speaking about  
6 the same things when we use some shorthand and not have to  
7 repeat signs and locations constantly.

8 So, if you will, sir, do you agree that if we  
9 refer to the Fort Lee translator, it will mean translator  
10 station W276AQ in Fort Lee, New Jersey, licensed to Gerard  
11 A. Turro?

12 A Okay.

13 Q If we refer to the Pomona translator, it will mean  
14 translator station W232AL serving Pomona, New York, also  
15 licensed to Gerard A. Turro?

16 A Okay.

17 Q If we refer to the Monticello station, Mr.  
18 Loginow, do you agree it will mean FM radio station WJUX  
19 serving Monticello, New York, which formerly held the call  
20 sign of WXTM, licensed to Monticello Mountaintop  
21 Broadcasting, Inc.?

22 A Okay, that's fine.

23 Q A couple more. If we refer to the Dumont studio,  
24 Mr. Loginow, do you agree that we will be referring to the  
25 program production studio of Jukebox Radio in Dumont, New

1 Jersey?

2 A That's good.

3 Q Last, if we refer to the microwave, Mr. Loginow,  
4 will you agree that we'll be referring to what has been  
5 microwave station WMG499, which had been licensed to Mr.  
6 Turro, but has ceased operation?

7 A Yes.

8 Q Okay, thank you.

9 MR. ARONOWITZ: Excuse me? What was the last one?

10 MR. NAFTALIN: Microwave, WMG499.

11 MR. ARONOWITZ: Oh, sorry.

12 BY MR. NAFTALIN:

13 Q Finally, sir, if we refer to Universal, will you  
14 agree that it will mean Universal Broadcasting of New York,  
15 Inc., the licensee of WNVJ, Oakland, New Jersey?

16 A I believe it's WVNJ.

17 Q Oh, I'm sorry. Thank you.

18 JUDGE STEINBERG: That could have screwed up the  
19 whole hearing.

20 MR. NAFTALIN: And in the first five minutes, too.

21 (Laughter.)

22 BY MR. NAFTALIN:

23 Q Mr. Loginow, you've provided various documents  
24 previously in this proceeding, as well as your statement,  
25 which is part of the -- isn't that so?



1 A Yes.

2 Q During the course of your employment with the FCC,  
3 you conducted various investigations of the station which  
4 are at issue in this case, and on the following days, April  
5 13 and 14, 1995?

6 A Yes.

7 Q May 15, 1995?

8 A Yes.

9 Q July 31, 1995?

10 A Yes.

11 Q August 2, 1995?

12 A Yes.

13 Q You also conducted an investigation on June 4,  
14 1997, is that correct?

15 A Yes.

16 Q Thank you. I will not be examining you on the  
17 details of your activities on April 13, 1995, Mr. Loginow,  
18 as my understanding is they were directed toward the  
19 Monticello station and that would be Mr. Riley's client and  
20 he'll take that up with you later.

21 There are just two points from your activities on  
22 April 13, 1995 that I'd like to touch base with you, because  
23 I believe they were directly relevant to what you did on  
24 April 14, 1995. So, first, Mr. Loginow, during the course  
25 of your inspection of the Monticello station on April 13,

1 1995, isn't it true that you arranged with Mr. Blabey, who  
2 is the station's general manager, to have an engineer  
3 manning the Monticello station transmitter the next day,  
4 which was April 14, 1995, to receive a telephone call from  
5 you and follow your instructions about turning that  
6 transmitter on and off?

7 A Yes.

8 Q The second point is, also during the course of  
9 your investigation on April 13, 1995, isn't it true that you  
10 went to the Monticello station transmitter itself and  
11 inspected it?

12 A That's correct.

13 Q During the course of your inspection of the  
14 Monticello transmitter on April 13, 1995, you personally  
15 observed that it was operating at reduced power?

16 A We didn't make any measurements to that effect.  
17 We just took the statements to be true.

18 Q One thing, Mr. Loginow, by we do you mean you?

19 A Yes, I'm sorry, yes. I accepted the statements to  
20 be true.

21 Q Okay. Mr. Loginow, do you have your statement in  
22 front of you, sir?

23 A I have some of them, yes.

24 Q Do you have the document entitled Statement of  
25 Serge Loginow, Jr., which is Mass Media Bureau Exhibit 16,

1 and that was your statement executed on the 21st day of  
2 October, 1997?

3 A Yes.

4 Q We looked at this document during the deposition a  
5 week ago today, didn't we, Mr. Loginow?

6 A Yes, yes, we did.

7 Q Attached, the first attachment, Mr. Loginow,  
8 there's a fax page followed by a document entitled Radio  
9 Station Inspection Report, is that so?

10 A Yes.

11 Q You wrote the Radio Station Inspection Report,  
12 didn't you, Mr. Loginow?

13 A Yes, yes, I did.

14 Q It's your work, isn't it?

15 A Correct.

16 Q You told me in your deposition a week ago that  
17 your Radio Station Inspection Report was true and accurate  
18 at the time you wrote it, isn't that right, sir?

19 A That's correct.

20 Q You had no changes in knowledge or any changes you  
21 wished to make to it during your deposition a week ago, did  
22 you, sir?

23 A That's correct.

24 Q Let me direct your attention, Mr. Loginow, to the  
25 second page of the Radio Station Inspection Report.

1 JUDGE STEINBERG: For the record, that's Bureau  
2 Exhibit 16, Attachment A, page 255.

3 MR. NAFTALIN: Thank you, Your Honor.

4 JUDGE STEINBERG: The witness doesn't have in  
5 front of him the copy with the Bureau stamp on it.

6 MR. NAFTALIN: Oh, I see. All right, it's Bates  
7 stamped 255.

8 JUDGE STEINBERG: Yes, it starts at 254.

9 BY MR. NAFTALIN:

10 Q On the second page of your report, Mr. Loginow, at  
11 the top you'll see part of a paragraph that carried over  
12 from the previous page. The two sentences there that I'd  
13 like you to take a look at, if you'd just take a look at  
14 them very briefly and let me know when you've had a chance  
15 to read them?

16 A Okay.

17 JUDGE STEINBERG: I think it might be better if  
18 you read the whole paragraph.

19 MR. NAFTALIN: Oh, certainly.

20 JUDGE STEINBERG: You do have the copy with the  
21 Bates stamps on it, I'm sorry. Just take your time and read  
22 that.

23 THE WITNESS: Okay, go ahead.

24 BY MR. NAFTALIN:

25 Q Mr. Loginow, at the top of the second page of the

1 Radio Station Inspection Report that you wrote, it says,  
2 "Turro --" and I assume you meant Mr. Turro, who is a party  
3 to this proceeding?

4 A That's correct.

5 Q "Turro stated that the condition was due to the  
6 WXTM transmitter operating at reduced power, due to a recent  
7 lightening strike." Then, Mr. Loginow, don't you agree that  
8 the next sentence says, "The inspecting engineer had  
9 observed that the operating power at WXTM was reduced."

10 A Yes, I agree that's what it says.

11 Q You wrote that, didn't you, sir?

12 A Yes, I did.

13 Q Does that refresh your recollection now as to  
14 whether you observed whether or not WXTM, which was the  
15 Monticello station, was operating at reduced power?

16 A Yes, it does.

17 Q Do you agree now that on April 13, 1995, you  
18 personally observed that the Monticello station was, in  
19 fact, operating at reduced power?

20 A I observed a meter setting which Eugene Blabey had  
21 mentioned reflects a reduced power, and I accepted that to  
22 be true.

23 Q So, you observed, based upon metering at the  
24 station, that the Monticello station was operating at  
25 reduced power on April 13, 1995?

1           A     Not based upon an actual absolute power reading,  
2     but upon Mr. Blabey's statement that that meter reading  
3     indicates a reduced power.

4           Q     But, you saw the meter yourself, sir?

5           A     Yes.

6           Q     You personally observed that the meter indicated  
7     that the station was operating at reduced power?

8           A     I observed that the position which the meter was  
9     resting at was said to be at reduced power by Mr. Blabey.

10          JUDGE STEINBERG: Are there numbers on the meter?

11          THE WITNESS: Yes, there was.

12          JUDGE STEINBERG: Do you know what the regular  
13     number is, if it's operating at full power?

14          THE WITNESS: No, I did not make actual numerical  
15     measurements.

16          JUDGE STEINBERG: I'm not talking about whether  
17     you measured or whether you set up something and you  
18     measured. I don't even know if that's something. It's  
19     probably a box with stuff in it. That's the extent of my  
20     engineering knowledge, so you're going to have to explain  
21     everything to me. Assume that I'm an idiot and don't know  
22     anything about engineer.

23          THE WITNESS: Okay.

24          JUDGE STEINBERG: The meter has got set readings  
25     on it and if it's operating at full power, it will be at one

1 number, at reduced power it will be at a different number,  
2 and you saw it at a different number?

3 THE WITNESS: Correct.

4 JUDGE STEINBERG: Okay, if the meter is correct,  
5 then it would be operating at reduced power?

6 THE WITNESS: Correct.

7 JUDGE STEINBERG: Okay.

8 MR. NAFTALIN: Thank you, Mr. Loginow. Thank you,  
9 Your Honor.

10 BY MR. NAFTALIN:

11 Q Mr. Loginow, I'd like to move onto the next day,  
12 which is April 14, 1995. Now, it's true that on April 14,  
13 1995, isn't it, that you obtained, during the course of your  
14 employment, you obtained an FCC vehicle, and you drove out  
15 to Bergen County, New Jersey, intending to monitor the  
16 transmissions of the Fort Lee translator and the Pomona  
17 translator?

18 A Yes, that's correct.

19 Q Isn't it true that you went to a location on Route  
20 9 in Bergen County where you could receive the transmissions  
21 of the Fort Lee translator and the Pomona translator at the  
22 same time?

23 A Yes, that's correct.

24 Q The Fort Lee translator was transmitting on 103.1  
25 MHz and the Pomona translator was transmitting on 94.3 MHz,

1 is that correct?

2 A That's correct.

3 Q Okay, thank you. Now, as I understand it, isn't  
4 it true that you set your monitors to the output frequencies  
5 of the Fort Lee translator and the Pomona translator there  
6 in the vehicle on April 14, 1995, and you could hear the  
7 transmissions from both stations?

8 A Yes.

9 Q At approximately that time, Mr. Loginow, you took  
10 your cell phone and you placed a telephone call to the  
11 Monticello station transmitter site, isn't that right?

12 A Yes.

13 Q A man answered the phone, is that correct?

14 A That's correct.

15 Q Do you remember one way or the other whether that  
16 man was George Spicka, the engineer?

17 A No, I do not.

18 Q It could have been him, you just don't remember,  
19 is that correct?

20 A That's correct.

21 Q Once you had the person on the phone at the  
22 Monticello transmitter site, you instructed that person to  
23 kill it, isn't that correct?

24 A Yes.

25 Q By kill it, that meant turn the Monticello



1 transmitter off, is that correct?

2 A That's correct.

3 Q A few moments after instructing the gentleman on  
4 the other end of the phone to kill it, isn't it true that  
5 you observed that the Jukebox Radio programming which you  
6 had been hearing coming from the Fort Lee translator and the  
7 Pomona translator dropped off the air?

8 A Nearly instantaneously.

9 Q Nearly instantaneously, after a command to kill  
10 it?

11 A Right.

12 Q Thank you. Instead of monitoring or hearing the  
13 Jukebox Radio programming from the Fort Lee translator and  
14 the Pomona translator, isn't it true, Mr. Loginow, that it  
15 was replaced by hearing white noise?

16 A Correct.

17 JUDGE STEINBERG: Define white noise.

18 MR. NAFTALIN: I was just going to ask, Your  
19 Honor.

20 BY MR. NAFTALIN:

21 Q Two things. Mr. Loginow, could you for the Judge,  
22 as best you can, reproduce the sound of white noise with  
23 your voice?

24 A No, I cannot. But, I can describe that it's the  
25 sound that you hear when you tune between two FM stations.

1 JUDGE STEINBERG: Like a big hiss?

2 THE WITNESS: Yes.

3 BY MR. NAFTALIN:

4 Q Would it be a harsh, noisy, crackling kind of  
5 sound?

6 A Not so much crackling. Just a hiss.

7 Q Static kind of sounds?

8 A At a very low level static.

9 Q Not silence, but a distinct term that you would  
10 call white noise?

11 A Right.

12 Q Now, the reason you did this was to test how the  
13 Fort Lee translator and the Pomona translator were receiving  
14 their Jukebox Radio programming, isn't that correct?

15 A Yes, it is.

16 Q From the test that you performed, you were able to  
17 determine on April 14, 1995, that the Fort Lee translator  
18 was receiving Jukebox Radio programming off the air from the  
19 Pomona translator, weren't you, Mr. Loginow?

20 A To a high degree of assurity, yes.

21 Q That's what your Radio Station Inspection Report  
22 says, isn't it, sir?

23 A Yes, it is.

24 Q At the same time, you were able to determine that  
25 the Pomona translator was receiving Jukebox Radio

1 programming off the air from the Monticello station, isn't  
2 that correct?

3 A Yes, it is.

4 Q That's also stated in your Radio Station  
5 Inspection Report, isn't it, sir?

6 A Yes, it is.

7 Q Is it fair to say that the two translator stations  
8 passed the test on April 14, 1995?

9 A Yes, it is.

10 Q At that point, did you instruct the person at the  
11 Monticello station transmitter to turn the transmitter back  
12 on?

13 A Yes, I did.

14 Q Jukebox Radio programming then returned to the  
15 Fort Lee translator and the Pomona translator promptly  
16 thereafter?

17 A Yes, it did.

18 Q Almost instantaneously, as before?

19 A Yes.

20 Q Thank you. Did that conclude your test on April  
21 14, 1995?

22 A Yes.

23 Q AT that point, Mr. Loginow, is it true that you  
24 proceeded to the Dumont studio?

25 A Yes.

1 Q You went into the Dumont studio on April 14, 1995,  
2 didn't you, sir?

3 A Yes.

4 Q If I recall right, isn't it true you met a few  
5 people, but you don't recall who you met there?

6 A Yes, that's correct.

7 Q You had an opportunity to look around the Dumont  
8 studio at that time?

9 A Yes.

10 Q Isn't it true you were there just a few minutes,  
11 Mr. Loginow?

12 A Yes, just a short time.

13 Q Is it safe to say you were probably there less  
14 than ten minutes?

15 A On the order of ten minutes, yeah. Probably less.

16 Q Maybe, okay. That's fine. No one impeded your  
17 inspection of the Dumont studio at that time?

18 A No, not at all.

19 Q Isn't it also true, Mr. Loginow, that you asked to  
20 see remote control equipment which might have been at the  
21 Dumont studio used to control the Monticello station  
22 transmitter?

23 A It was pointed out to me, a unit, yes.

24 Q But, you actually asked to see it, didn't you, Mr.  
25 Loginow?

1 A Yes.

2 Q You saw that remote control equipment, didn't you,  
3 sir?

4 A Mm-hmm.

5 JUDGE STEINBERG: You have to answer yes or no.

6 THE WITNESS: Oh, I'm sorry. Yes.

7 BY MR. NAFTALIN:

8 Q Thank you. But, it's also true, Mr. Loginow, that  
9 although you looked at the remote control equipment that was  
10 located at the Dumont studio used for the Monticello  
11 station, you did not inspect or test that equipment at all,  
12 did you, sir?

13 A That's correct.

14 Q Then, after those few minutes in the Dumont  
15 studio, you left, is that right?

16 A That's correct.

17 Q Did that conclude your investigations of Mr.  
18 Turro's stations on April 14, 1995?

19 A Yes, it did.

20 Q Isn't it true, Mr. Loginow, that you next returned  
21 to conduct investigations in connection with this proceeding  
22 on May 15, 1995?

23 A Yes.

24 Q On May 15, 1995, you went to the Fort Lee  
25 translator itself in Fort Lee, New Jersey, didn't you, Mr.

1 Loginow?

2 A Yes, that's correct.

3 Q Your intention on May 15, 1995 was to perform  
4 further tests, isn't that right?

5 A That's correct.

6 Q To perform those tests, you brought with you a  
7 portable signal generator, isn't that right?

8 A Yes.

9 Q Do you understand that the Fort Lee translator is  
10 located at the Mediterranean Towers Building in Fort Lee,  
11 New Jersey?

12 A Mm-hmm, yes.

13 JUDGE STEINBERG: Tell me what a portable signal  
14 generator is? Are you going to get to that?

15 MR. NAFTALIN: Feel free, that's fine.

16 JUDGE STEINBERG: Well, I know I can feel free,  
17 but I don't want to cut into your act.

18 BY MR. NAFTALIN:

19 Q No, Mr. Loginow, tell us what a portable signal  
20 generator is?

21 A It's a box, 15, 20 pounds, has a handle on it and  
22 you can carry it around. It generates a signal on any  
23 frequency that you can select by several dial and band  
24 selector switches.

25 JUDGE STEINBERG: So, if you want to generate an

1 FM signal on a certain frequency, you just set a bunch of  
2 dials and the signal generator will put out a signal of a  
3 certain strength on that frequency?

4 THE WITNESS: That's correct. A signal generator  
5 is not like a transmitter. It doesn't have a lot of power  
6 to it. It puts out a voltage that you can use in extremely  
7 close situations.

8 JUDGE STEINBERG: What's the range of something  
9 like that? Can you set it yourself, set the range yourself?

10 THE WITNESS: Oh, yeah, you can set the range.

11 JUDGE STEINBERG: Do you remember what the range  
12 that you set the signal generator on?

13 THE WITNESS: Well, the range I varied to achieve  
14 the desired result, so I increased it from nothing on each  
15 frequency I selected.

16 JUDGE STEINBERG: Okay, why don't you get into  
17 that?

18 MR. NAFTALIN: Thank you, Your Honor.

19 JUDGE STEINBERG: The range might become  
20 important.

21 MR. NAFTALIN: Sure.

22 BY MR. NAFTALIN:

23 Q Mr. Loginow, I think you testified last week that  
24 the signal generator had a fixed antennae on it, is that  
25 right?

1 A No, there's no antennae attached.

2 Q I'm sorry, I thought you testified it had a fixed  
3 length of antennae approximately three feet long?

4 A Yes, the antennae I used had a fixed length of  
5 about three feet long.

6 Q So, you personally attached an antennae to the  
7 signal generator of approximately three feet long?

8 A That's correct.

9 Q This was basically a wire antennae?

10 A It's a -- like a quarter wave whip, they call it.

11 Q A whip antennae?

12 A Yes.

13 Q About three feet long, is that right?

14 A Yes.

15 Q I believe you testified last week that the maximum  
16 power output from --

17 JUDGE STEINBERG: Don't say you testified last  
18 week, unless you're going to refresh his recollection or  
19 impeach, which I don't think you're doing, are you?

20 MR. NAFTALIN: No, not at all.

21 JUDGE STEINBERG: Okay, so just ask the questions,  
22 because what he testified last week doesn't matter this  
23 week.

24 MR. NAFTALIN: Thank you, Your Honor, I'll do  
25 that.



1 BY MR. NAFTALIN:

2 Q You attached a three foot whip antennae to the  
3 signal generator, didn't you, Mr. Loginow?

4 A Yes, yes, I did.

5 Q Isn't it true, sir, that the maximum power output  
6 of the signal generator you used on May 15, 1995 was a  
7 maximum of one volt?

8 A It's not -- voltage is not a power indication.  
9 It's a voltage capability. It's approximately one volt,  
10 yes.

11 Q Mr. Loginow, would you agree that if the signal  
12 generator you used on May 15, 1995 had a maximum power of  
13 one volt, the wattage, its maximum wattage output would have  
14 been less than one watt?

15 A Yes, I would agree.

16 Q Would you agree that maybe it would be  
17 considerably less than one watt?

18 A What do you mean by considerably?

19 Q Less than half a watt?

20 A Around that, yes, less than half.

21 Q In other words, at its maximum output, you agree,  
22 do you sir, that the signal generator you used would have  
23 sent out a low level signal?

24 A That's the nature of a signal generator.

25 Q Now, you took your signal generator and you went